

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

SAMUEL TIGGS,

File No. 07-cv-07254(BSJ)(THK)

Plaintiff,

-against-

THE CITY OF NEW YORK, DEPARTMENT
OF CORRECTION COMMISSIONER
MARTIN F. HORN, PRISON HEALTH
SERVICES, INC., MICHAEL CATALANO,
C.E.O. OF PRISON HEALTH
SERVICES, INC., DOHMH MEDICAL
DIRECTOR TREVOR PARKS, DOHMH
PROGRAM DIRECTOR REBECCA
PINNEY, DOHMH DEPUTY
COMMISSIONER JAMES CAPOZIELLO,
DOHMH DEPUTY MEDICAL DIRECTOR
BENJAMIN OKONTA, DR. FRANZ
MEDARD, PRISON HEALTH SERVICES,
INC., PHYSICIANS' ASSISTANTS,
PRISON HEALTH SERVICES. INC.,
PHARMACISTS JOHN DOE 1-5,
DEPARTMENT OF CORRECTION
EMPLOYEES, JOHN DOE 1-5

**DECLARATION OF JOHN
H. BONE IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS PURSUANT
TO RULE 12(b)6**

Defendants.

X

JOHN H. BONE, declares, under penalty of perjury, as follows:

1. I am an associate of the law firm HEIDELL, PITTONI, MURPHY & BACH, LLP, Trial Counsel for defendants THE CITY OF NEW YORK, FRANZ MEDARD, M.D. s/h/a "DR. FRANZ MEDARD," MARTIN HORN, TREVOR PARKS, M.D. s/h/s "DOHMH MEDICAL DIRECTOR TREVOR PARKS," JAMES CAPOZIELLO s/h/a "DOHMH DEPUTY COMMISSIONER JAMES CAPOZIELLO," MICHAEL CATALANO s/h/a "MICHAEL CATALANO, C.E.O. OF PRISON HEALTH SERVICES, INC.," BENJAMIN OKONTA, M.D. s/h/a "DOHMH DEPUTY MEDICAL DIRECTOR

BENJAMIN OKONTA" and REBECCA PINNEY s/h/a "DOHMH PROGRAM DIRECTOR REBECCA PINNEY," in the above-captioned matter. As such, I am fully familiar with all of the proceedings had herein and submit this declaration in support of defendant's motion for dismissal pursuant to Rule 12(b)6 of the FRCP.

2. Annexed hereto as Exhibits are documents which are relied upon and cited in defendant's Memorandum of Law accompanying this motion:

Exhibit "A": Plaintiff's Complaint dated August 14, 2007.

3. As set forth in defendant's Memorandum of Law dated November 16, 2007, defendants THE CITY OF NEW YORK, FRANZ MEDARD, M.D. s/h/a "DR. FRANZ MEDARD," MARTIN HORN, TREVOR PARKS, M.D. s/h/s "DOHMH MEDICAL DIRECTOR TREVOR PARKS," JAMES CAPOIELLO s/h/a "DOHMH DEPUTY COMMISSIONER JAMES CAPOIELLO," MICHAEL CATALANO s/h/a "MICHAEL CATALANO, C.E.O. OF PRISON HEALTH SERVICES, INC.," BENJAMIN OKONTA, M.D. s/h/a "DOHMH DEPUTY MEDICAL DIRECTOR BENJAMIN OKONTA" and REBECCA PINNEY s/h/a "DOHMH PROGRAM DIRECTOR REBECCA PINNEY," ("The Moving Defendants") are entitled to dismissal of the complaint, with prejudice, pursuant to Rule 12(b)6 of the FRCP because the action fails to state a claim on which relief may be granted.

Dated: New York, New York
November 16, 2007

HEIDELL, PITTONI MURPHY & BACH, LLP

By: 

JOHN H. BONE (JB8342)

Trial Counsel for Defendants

THE CITY OF NEW YORK, FRANZ MEDARD,
M.D. s/h/a "DR. FRANZ MEDARD," MARTIN
HORN, TREVOR PARKS, M.D. s/h/s "DOHMH
MEDICAL DIRECTOR TREVOR PARKS,"

JAMES CAPOIELLO s/h/a "DOHMH DEPUTY
COMMISSIONER JAMES CAPOIELLO,"

MICHAEL CATALANO s/h/a "MICHAEL
CATALANO, C.E.O. OF PRISON HEALTH
SERVICES, INC.," BENJAMIN OKONTA, M.D.
s/h/a "DOHMH DEPUTY MEDICAL DIRECTOR
BENJAMIN OKONTA" and REBECCA PINNEY
s/h/a "DOHMH PROGRAM DIRECTOR

REBECCA PINNEY,"

Office & P.O. Address

99 Park Avenue

New York, NY 10016

Tel: (212) 286-8585

Fax: (212) 490-8966

TO: Stoll, Glickman & Bellina, LLP
71 Nevins Street
Brooklyn, NY 11217
Attn: Cynthia Conti-Cook